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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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September 23, 2022

9:32 a.m.

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Deposition of BLAKE GOPNIK, held at the offices of Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, New York, pursuant to subpoena, before Laurie A. Collins, a Registered Professional Reporter and Notary Public of the State of New York.

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2 A P P E A R A N C E S (continued) :

3

4 ALSO PRESENT:

5 VALENTINE FADIE, ESQ. (Hermès)

6 (via videoconference)

7 ZEF COTA, Videographer

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1 Gopnik

2 art?

3                   A.     Business art is art that engages  
4     directly and powerfully with -- for want of a  
5     better word, with business, with commerce, with a 01:21:31  
6     wide range of activities that on the face of it  
7     normally might seem as being essentially about  
8     finances and commodities but in fact when  
9     introduced into the discourse of art seem to have  
10    a richer set of resonances. It's a way of using 01:21:46  
11    art to look at the world of finance and business  
12    by participating in it to a certain extent.

13 I'm sorry, it's a long-winded answer.

14 Q. Are there times when people participate  
15 in the world of finance and business and they're 01:22:04  
16 not engaging in business art?

17 A. Yes.

18 Q. How can you tell whether someone is  
19 engaging in business art or not?

20 A. Through a larger set of contextual 01:22:16  
21 clues that tell you, oh, this might be worth  
22 looking at as an artistic activity; for instance,  
23 in the case of Andy Warhol, because he's generally  
24 regarded as an artist and presents himself as an  
25 artist. 01:22:32

1 Gopnik

2           A.     I am obviously speaking widely  
3     metaphorically here, and in writing this I'm sure  
4     I didn't think through it in great detail. I was  
5     trying to conjure an image.

02:29:23

6                   But I assume that a certain kind of  
7 traditional Catholic once upon a time would have  
8 distinguished between Crowns of Thorns that were  
9 on Jesus's head at some point versus one that had  
10 been made later. But since I'm not at all  
11 convinced there was a Crown of Thorns on Jesus's  
12 head, it's an obviously very figurative way of  
13 speaking.

02:29:39

14 Q. And in the example you gave, the one  
15 that was made later was the counterfeit?

02:29:58

16 A. Yes, correct.

17                   Q.     I'd like to --

18           A.       I want to clarify, I was speaking  
19           metaphorically.

20 Q. Okay.

02:30:16

21 I'd like to show you a document that  
22 has been previously marked as Exhibit 6.

23 MR. SPRIGMAN: I want one of these.

24 THE WITNESS: Yeah, I think they're

25 great.

02:31:01

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1 Gopnik

2 (Pause.)

3 Q. Have you seen this document before  
4 today?

5 A. I've not, no.

02:31:18

6 Q. Have you seen the shirt depicted in  
7 the -- the large shirt depicted on the first page  
8 of this document before today?

9 A. I don't believe I ever have, no.

10 When you say "large," is that a  
11 normal -- is not a normal shirt?

02:31:37

12 Q. Because there was a small blue shirt in  
13 the bottom corner, I was referring to the large  
14 white red shirt in the center of the page.

15 A. Got it.

02:31:59

16 Q. Are you aware that Mason Rothschild  
17 sold a line of classic collegiate apparel inspired  
18 T-shirts for art and fashion students?

19 MR. SPRIGMAN: Objection.

20 A. I'm not aware of that.

02:32:11

21 Q. I'd like you to assume in this question  
22 that the Parsons T-shirt shown in this document  
23 was created and sold by Mason Rothschild. Is this  
24 T-shirt art?

25 MR. SPRIGMAN: Objection.

02:32:57

1 Gopnik

2 A. As with anything else, I really would  
3 normally like to study it in greater detail. But  
4 my guess is that within the larger context of  
5 Mason Rothschild, knowing about his MetaBirkins 02:33:08  
6 project especially, this would very much seem to  
7 indicate -- because he's touching on Central Saint  
8 Martins Parsons, this would seem to set it within  
9 an art world context. It seems to be an  
10 intervention in art world discourse. 02:33:25

11 Q. Are you familiar with the Parsons  
12 School of Design?

13                   A.           I am.

14 Q. Are you familiar with the logo -- let  
15 me ask you, what is the Parsons School of Design? 02:33:48

16           A.       Parsons School of Design is part of the  
17        New School in New York.  It's their design  
18        component.  It's a venerable design school.

19 Q. Are you familiar with the logo of the  
20 Parsons School of Design?

21 MR. SPRIGMAN: Objection.

22 A. I 'm not.

23 Q. I'm going to show you what we've marked  
24 as Exhibit 194.

25 (Exhibit 194, printout from Wayback 02:34:21

1 Gopnik

2 Machine internet archive, marked for  
3 identification.)

4 Q. I'm going to represent to you that this  
5 is a page pulled from the Wayback Machine internet 02:34:41  
6 archive showing a page from the Parsons Web site  
7 as it appeared around 2015.

8                    Does this document refresh your  
9                    recollection as to what the logo of the Parsons  
10                  school looks like?

02:35:09

11 MR. SPRIGMAN: Objection. I'm going to  
12 object to this. You haven't laid any  
13 foundation that this is a logo of the Parsons  
14 School of Design or -- there's no context on  
15 this Web page. I'm not sure what.

02:35:19

16 THE WITNESS: I am concerned about  
17 that.

18 MR. SPRIGMAN: The Web page is not --  
19 does not look like a Web page that would  
20 appear in nature. It looks like --

02:35:26

21 MR. FERGUSON: Like a page from the  
22 Wayback Machine?

23 MR. SPRIGMAN: I know, but it's missing  
24 a lot of context

25 MR. FERGUSON: I'm going to ask you not 02:35:36

1 Gopnik

2 to make speaking objections. You've stated  
3 your objection.

10 So that's not a speaking objection so 02:35:48  
11 much as an objection against what I consider  
12 to be an improper exhibit.

13 Now, if you want to ask him about it,  
14 that's fine. But I'm this is beyond the pale,  
15 so I will speak my objection.

16 Q. Does this document refresh your  
17 recollection of what the logo for the Parsons  
18 school looks like?

19 MR. SPRIGMAN: Objection.

20 A. No, I have no knowledge of the logo, 02:36:08  
21 what it was or ever had been. Logos change, by  
22 the way, very frequently. I wouldn't be surprise  
23 if that is no longer the logo and was only briefly  
24 the logo.

25 Q. Referring back to Exhibit 6, is it your 02:36:40

1 | Gopnik

2 testimony that this T-shirt which presents the  
3 name Parsons in red on a white T-shirt is art?

4 MR. SPRIGMAN: Objection.

5           A.     Again, that's like asking me if a given   02:36:58  
6     urinal is art.  It's only art within a context.  
7     But this has enough markers that indicate to me  
8     that it could very well be playing that kind of  
9     role.

10 Q. And what are the markers?

02:37:08

11           A.       The most important marker is that it's  
12        actually engaging with the art world.  There's a  
13        rich tradition of artists in the last 20 or 30 or  
14        40 years seeing art schools as an important  
15        subject to talk about and the way they train  
16        people and the way they pretend to give people  
17        skills to then become professional artists.

18                   There's a very large discourse, in  
19                   which my wife happens to participate, of people --  
20                   of artists making work about the nature of art  
21                   schools.

22 Q. Is this item a counterfeit?

23 MR. SPRIGMAN: Objection.

24           A.     Again, a counterfeit is only -- you can  
25           only tell when something is a counterfeit or not

1 Gopnik

2 within a particular context of use. And it's  
3 possible for something to be both an artwork and a  
4 counterfeit at the same time.

5 Q. How is it possible for something to be 02:38:12  
6 both an artwork and counterfeit at the same time?

7 A. Just as Marcel Duchamp's urinal  
8 presented in a museum or conceptualized in a  
9 museum, conceptualized in an art book, is a work  
10 of art. However, if it's presented to someone who 02:38:27  
11 desperately needs to urinate, then it can function  
12 as a urinal as well.

15 Q. Would it change your view as to whether 02:38:43  
16 the shirt depicted in Exhibit 6 is art if Parsons  
17 sent a letter to Mr. Rothschild claiming  
18 infringement of their rights and demanding that he  
19 stop selling them?

20 MR. SPRIGMAN: Objection. 02:39:09

21 A. Not in the slightest.

22 O. And why is that?

23 A. Because -- first of all, the kind of

24 people who send those letters at art schools are

usually the legal department, people in charge of 02:39:16

1 Gopnik

2 things like branding. They rarely have connection  
3 to the people who make art or teach art.

4 It could be that Parsons sending that

letter isn't Parsons art school but simply the  
people at Parsons only responsible for financial  
matters, for instance.

8 Q. I'm showing you what we've marked as  
9 Exhibit 196.

10 (Exhibit 196, depiction re Babe Ruth,  
11 marked for identification.)

12 A. I own four of these. Sorry, I  
13 shouldn't be facetious. I said I own four of  
14 these, but I was being facetious.

15 Q. I should work for you, then.

16           A.       I was being facetious. I don't know if  
17       four even exist.

18 Q. Could you identify what's depicted in  
19 this exhibit?

20           A.       The truth is I can only guess.  It  
21        seems to be probably a baseball card -- I don't  
22        know the year -- an early Babe Ruth baseball card.  
23        And in the culture at large we tend to know that  
24        these cards are very valuable.

However, because I'm ignorant, this